

§6199. Enforcement

This section applies to any violation of this chapter in connection with the actions of a foreclosure purchaser. [PL 2007, c. 596, §1 (NEW).]

1. Enforcement. In addition to other actions allowed pursuant to this section, the administrator may undertake any authorized actions pursuant to Title 9-A, Article 6 to ensure compliance with this chapter.

[PL 2007, c. 596, §1 (NEW).]

2. Private action. A private cause of action may be brought by a foreclosed homeowner on the basis of a violation of this chapter. A foreclosed homeowner may be awarded actual and consequential damages and costs, including reasonable attorney's fees, and may be granted injunctive, declaratory and other equitable relief the court determines appropriate in an action to enforce compliance with this chapter.

[PL 2007, c. 596, §1 (NEW).]

3. Remedies cumulative. The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies and penalties provided by state or federal law.

[PL 2007, c. 596, §1 (NEW).]

4. Improvident transfer. The remedies provided under Title 33, chapter 20 apply to any violation of this chapter in connection with actions of a foreclosure purchaser.

[PL 2007, c. 596, §1 (NEW).]

5. Stay of eviction action. The automatic stay of an eviction action is governed by this subsection.

A. A court hearing an eviction action against a foreclosed homeowner must issue an automatic stay without imposition of a bond if a defendant makes a prima facie showing that the defendant:

(1) Has commenced an action concerning a foreclosure reconveyance; asserts a defense under that action that the property that is the subject of the eviction action is also the subject of a foreclosure reconveyance in violation of this chapter; or asserts a claim or affirmative defense of fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice in connection with a foreclosure reconveyance;

(2) Owned the residence in foreclosure;

(3) Conveyed title to the residence in foreclosure to a 3rd party upon a promise that the defendant would be allowed to occupy the residence or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest and that the residence or other real property would be the subject of a foreclosure reconveyance; and

(4) Since the conveyance, has continuously occupied the residence in foreclosure or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest. For purposes of this subparagraph, notarized affidavits are acceptable means of proof to meet the defendant's burden. Upon good cause shown, a defendant may request and the court may grant up to an additional 2 weeks to produce evidence required to make the prima facie showing. [PL 2007, c. 596, §1 (NEW).]

B. The automatic stay expires upon the later of:

(1) The failure of the foreclosed homeowner to commence an action in a court of competent jurisdiction in connection with a foreclosure reconveyance within 90 days after the issuance of the stay; and

(2) The issuance of an order lifting the stay by a court hearing claims related to the foreclosure reconveyance. [PL 2007, c. 596, §1 (NEW).]
[PL 2007, c. 596, §1 (NEW).]

6. Unfair trade practice. The Attorney General may bring an action under Title 5, chapter 10 for any violation of this chapter.
[PL 2007, c. 596, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 596, §1 (NEW).

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